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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,521	12/08/2003	Brian Frost	6600-0012-2	2985

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EXAMINER

MENDIRATTA, VISHU K

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 09/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/730,521

Applicant(s)

FROST ET AL.

Examiner

Vishu K. Mendiratta

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: (1) **“one game outcome device provided at a location operatively inaccessible to any player situated at said player positions”** (2) **“a random characteristic of a physical interaction”**.

2. The amendment filed 7/6/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: (1) **“one game outcome device provided at a location operatively inaccessible to any player situated at said player positions”** (2) **“a random characteristic of a physical interaction”**.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4,9-10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what apparatus/structure is being claimed in limitation **“one game outcome device provided at a location operatively inaccessible to any player situated at**

**said player positions**". If players are situated around the game table as shown in applicant's Fig.1 the outcome device (3) is easily accessible to players.

It is also not clear what tangible structure is being claimed in limitation "**a random characteristic of a physical interaction**".

***Claim Rejections - 35 USC § 102***

5. Claims 1-4,9-10 rejected under 35 U.S.C. 102(b) as being anticipated by Franchi (5,770,533).

Franchi teaches a gaming table (Fig.14), a game outcome determining device (dice rolled in craps game) which is not a card game, the dice being manually operated (16:61-66) and dice landing on the table, a processor (16:56-59), player console (1401) and dealer console (1402), winnings and losses being directly credited to the player directly (2:55-67). Franchi teaches using roulette, big wheel for such games (3:43-45). Applicant's limitations such as "device exclusive of card game", "for a game based upon at least one direct physical interaction", "said direct physical interaction affecting" in claims are intended use of the device and do not further limit the apparatus in the claim. Also "at least one physical interaction" can be broadly and reasonably interpreted as pressing a button to start the automation, where "pressing a button" would be a direct physical interaction to determine the outcome.

Franchi further teaches receiving a player selection on a console (1401) which are exclusively on the table (Fig.14), determining an outcome by a direct physical interaction (rolling of dice 16:61-65), crediting proceeds directly to players at their consoles (2:55-67).

*Applicant may note that the manual operation of the random outcome determining device by the dealer does not further add any limitation to the apparatus in the claim. Rolling by a dealer or by a player depends on the method of playing and does not change the apparatus. Entering the outcome of the roll in dealer console clearly demonstrates a manual device.*

*Examiner takes the position that Franchi's reference of a possibility of substitution of dice by players clearly indicates at manual operation of dice.*

*For the purpose of treating the "operatively inaccessible" limitation on merit the examiner treats the limitation as a rule ~~where~~ which prohibits the players from operating the device. Also Fig.16 clearly indicates at playing the game from a remote station, in that the outcome device is clearly inaccessible to players. Claims 1-4,9-10 are apparatus claims and rules with respect to who is or in not allowed to operate the device do not further limit the apparatus in the claims. For example when the pit boss is watching players the device is "operatively inaccessible to players". Examiner also takes the position that "limitation "a random characteristic of a physical interaction" is inherent in Franchi wherein dice are rolled manually.*

*Franchi clearly teaches a conventional roulette wheel (16:37-40)as in applicant's claim*

*4.*

#### ***Claim Rejections - 35 USC § 103***

6. Claims 5,7-8,11-13 rejected under 35 U.S.C. 103(a) as being unpatentable over Franchi in view of Webb (6336633).

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Franchi teaches a gaming table (Fig.14), a game outcome determining device (dice rolled in craps game) which is not a card game, the dice being manually operated (16:61-66) and dice landing on the table, a processor (16:56-59), player console (1401) and dealer console (1402), winnings and losses being directly credited to the player directly (2:55-67). Franchi teaches using roulette, big wheel for such games (3:43-45).

Franchi further teaches receiving a player selection on a console (1401) that are exclusively on the table (Fig.14), determining an outcome by a direct physical interaction (rolling of dice 16:61-65), crediting proceeds directly to players at their consoles (2:55-67). Examiner also takes the position that "limitation **"a random characteristic of a physical interaction" is inherent in Franchi wherein dice are rolled manually.** Franchi also clearly teaches a conventional roulette wheel (16:37-40) as in applicant's claim 11.

Franchi teaches all limitations except that it does not expressly indicate a dealer rolling dice.

Webb teaches a method of playing a Craps game wherein a dealer shoots the dice (3:20-26).

Whereas allowing players to conduct a casino game is likely to interrupt the game and take more time as opposed to a dealer conducting the game. For a gaming house to be profitable, it is essential that the operation goes uninterrupted. One of ordinary skill in art at the time the invention was made would have suggested a dealer operating the random device manually as opposed to players operating the device.

***Response to Arguments***

7. Applicant's arguments filed 7/6/05 have been fully considered but they are not persuasive.

Applicant argues (page 5) that applicant's outcome device is operatively inaccessible.

**Examiner takes the position that** (1) the limitation has no antecedent basis in the specification (2) is a new matter and must be deleted from the claims (3) for the purpose of treating the "operatively inaccessible" limitation on merit the examiner treats the limitation as a rule in a manner that prohibits the players from operating the device for example when the pit boss is watching players the device is "operatively inaccessible to players".

Applicant argues (page 6) that the claim 1 limitation "wherein said outcome -----said random outcome" is intended to recite particularity of a random characteristic of a physical interaction". Examiner takes the position that a brief review of Franchi reference would indicate that Franchi is adding automation to the system with respect to surveillance and not to change the basic method of playing a table game in a casino. In that regard although Franchi does not expressly use the terms such as "manual or physical" with respect to using the outcome devices, it suggests at several instances indicating use of a conventional method of determining outcome. For example Franchi refers to Fig.12 as "a roulette table for use in the casino operating system includes a wheel" (13:66-14:2)". It is important to note that there is no mention of any automation system for wheel operation. For example Franchi refers to Fig.15 as "a roulette wheel at operator's station". For example Fig.14 is a craps table with physical rolling of dice.

Applicant's argument (page 8) regarding "operatively inaccessible" limitation has already been addressed above. However in an apparatus claim who controls the game does not further limit the apparatus.

Applicant argues (page 9) that Franchi teaches betting cards that are cashed at the cashier and not at the terminal. Examiner takes the position that applicant's claims 2-3 have no indication of handling cash at the terminal, but only indicating "paying out".

Broadly speaking "paying out" could be crediting on betting cards.

Applicant's argument (page 10) that "Franchi at best is about use of dice by a player" indicates the inherency of "a random characteristic" limitation.

Examiner also takes the position that Webb clearly indicates at possibility of "dealer only physical interaction" for simplifying the game, hence motivation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K. Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VKM  
September 7, 2005

A handwritten signature in black ink, consisting of a large, stylized 'V' followed by a series of loops and a long horizontal stroke at the bottom.

Vishu K Mendiratta  
Primary Examiner  
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